**THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA**

**WRIT PETITION NO.3757 of 1999**

**DATED: 09-04-2007**

**Between:-**

C. Umesh Chandra and another

.. Petitioners

and

The Hon'ble Judicial First Class Magistrate, Nandalur, Kadapa District and another.

.. Respondents

**THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA**

**WRIT PETITION NO.3757 of 1999**

**ORDER:**

This writ petition is filed seeking a mandamus declaring the action of the 1st respondent in taking the private complaint filed by the 2nd respondent on file as C.C.No.1 of 1999, as illegal and arbitrary.

The brief facts of the case are that, in the year 1995, the petitioners 1 and 2, who were posted as Superintendent of Police and Additional Superintendent of Police respectively of Kadapa District, have arrested the 2nd respondent and others in connection with Crime No.62 of 1995 of Pullampet Police Station, registered for the offences punishable under Sections 353, 307 read with 34 I.P.C., 25 (1) (b) (a) and 27 of Arms Act, Sections 5 and 6 of E.S. Act and Section 34-E of A.P. Excise Act. The petitioners contend that keeping the same in mind, the 2nd respondent filed a private complaint, under Section 190 of the Code of Criminal Procedure (for short 'C.R.P.C.'), against them and others for the offences punishable under Sections 365 read with 109, 368 and 324 of the Indian Penal Code, before the 1st respondent and the same was taken on file as C.C.No.1 of 1999. The petitioners further contend that as per the provisions of Section 197 of Cr.P.C., when a public servant is accused of any offence alleged to have been committed by him while discharging his official duty, no Court shall take cognizance of such offence without there being previous sanction

for prosecution by the State Government. Thus, the 1st respondent ought not to have taken the said private complaint on file and the same is liable to be quashed. Hence, this writ petition.

Heard both sides.

As the first petitioner is no more, the writ petition got abated.

In fact, there is a provision under Section 482 of the Cr.P.C. for seeking the relief of quashing the impugned proceedings. But, instead of resorting to file a petition under the said provision, the petitioners herein resorted to file the present writ petition. Hence, this Court is of the view that this writ petition is misconceived and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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**GOPALA KRISHNA TAMADA, J**

9th April, 2007
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